

Article 11.A:
EROSION AND SEDIMENT CONTROL

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A. Purpose of this Chapter

This chapter shall provide for, both during and following development, the effective control of erosion and sedimentation by the enforcement of the Virginia Erosion and Sediment Control Law and the minimum standards promulgated by the Virginia Soil and Water Conservation Board and known as the Virginia Erosion & Sediment Control Regulations.

B. Regulations

The erosion and sediment control program of the Town of Smithfield shall consist of the state program and regulations for erosion and sediment control. The Town of Smithfield shall exercise the responsibilities of the program authority, as provided by state law and by this Ordinance.

C. Designation of Plan Approving Authority

The Director of Planning, Zoning and Development is designated as the erosion and sediment control plan-approving authority in Town.

D. Designation of Enforcement Authority

The office of the Director of Planning, Zoning and Development is designated as the enforcement authority in the Town and shall have the power and authority to inspect, monitor, report and ensure compliance with the erosion and sediment control program of the Town. The enforcement authority is also referred to as the designated enforcement officer and the permit issuing authority.

E. Approval of Plans and Issuance of Permit

Erosion and sediment control plans submitted to the Town shall be reviewed and acted upon by the plan-approving authority or his designee. Upon approval of such plan, the applicant may seek a Land Disturbing-Permit from the permit-issuing authority. Plans shall be approved and permits shall be issued pursuant to the state law and applicable regulations of the Virginia Soil and Water Conservation Board or its successor board.

F. Fees Required

Applicants shall pay to the Town a fee to defray the cost of program administration, including costs associated with plan review, issuance of land disturbing permits, periodic inspection and enforcement. The fee shall be based on the following schedule:

1. Minimum fee applicable to all applications – (\$70.00)
2. Additional fee per acre of disturbed land -- (\$10.00 per acre)

G. Review by Town Council

1. Any person aggrieved by any action of the plan-approving authority or the enforcement authority shall have the right to apply for and receive a review of such action by the Town Council.
2. In reviewing the action of the plan-approving authority or the enforcement authority, the Council shall consider evidence and opinion presented by the aggrieved person, the plan-approving authority or the enforcement authority, and such other persons as shall be deemed by the authority, and such other persons as shall be deemed by the Council necessary for a complete review of the matter.
3. The Council may affirm, reverse or modify the action of the plan-approving authority or the enforcement authority, and the Council's decision shall be final, subject only to review by the circuit court of the County by appeal taken pursuant to applicable law.
4. For purposes of this section, the term "person aggrieved" shall be limited to the applicant or permit holder, owners of adjacent and downstream property and any interested governmental agency or officer thereof.

H. Peanut Soil and Water Conservation District

The Peanut Soil and Water Conservation District by joint resolution with the Council may exercise the responsibilities of the enforcement authority with respect to monitoring, reports and inspections.

I. Bonds and Maintenance

All control measures required by this Ordinance shall be undertaken at the expense of the owner or his agent, and pending such actual provision thereof, the owner or his agent shall execute and

file with the Zoning Administrator, prior to issuance of the land disturbing permit, an agreement and bond or agreements and bonds in an amount determined by the Zoning Administrator equal to the approximate total cost of providing erosion and sedimentation control improvements, with surety approved by the Town Attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken.

Within sixty (60) days of the adequate stabilization of the land-disturbing activity, as determined by the Town, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof shall be refunded to the owner or his agent or terminated, as the case may be.

Should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan as a result of his land-disturbing activity, the Town may take such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.